

FY 2020-2021 National Program (NP) Guidance: Early Engagement Questions for State & Tribal Partners (updated 8/8/18)

Consistent with the Agency's Strategic Plan and the Interim Guidance, EPA's enforcement priorities remain focused on addressing the most significant violations consistent with EPA's statutory authorities. For states and tribes with authorized programs, EPA, states, and tribes share enforcement responsibility, with primary enforcement responsibility residing with the state¹ or tribe. Further, EPA is responsible for addressing violations that occur in Indian country in the absence of an approved program. Even in states or tribes authorized to implement a program, EPA serves a critical role in addressing serious national noncompliance problems, such as those affecting multiple states or tribes, and in serving as a backstop for instances when a state or tribe does not timely or appropriately address serious noncompliance.

EPA is seeking early input from state and tribal partners on the upcoming FY 2020-2021 National Program Guidance. As part of that effort, EPA's enforcement and compliance assurance program is seeking specific feedback in the following areas:

Shared Goals and Priorities:

- 1. In the FY 2018-2022 EPA Strategic Plan, OECA has two strategic measures, (1) reduce the average time from violation identification to correction and (2) increase the environmental compliance rate. The Strategic Plan provides a list of strategic objectives to support these measures (e.g., 2.1—Enhanced Shared Accountability and 3.1—Compliance with the Law). In addition, OECA also works with other national programs offices to implement their compliance-related strategic measures and priorities (see table below). What assistance do states and tribes need from EPA to accomplish these shared goals and priorities?**

Table: Agency Strategic Plan Measures (SM) & Priorities Related to National Compliance

SM-1: Reduce the number of nonattainment areas

SM-2: Reduce the number of community water systems out of compliance with health-based standards [drinking water]

SM-4: Reduce the number of square miles of watershed with surface water not meeting standards [impaired waters]

SM-17: Reduce the average time from violation identification to correction

SM-18: Increase the environmental law compliance rate.

Strategic Plan: "With our partners, we will pay particular attention to vulnerable populations." (p.7)

Federal Lead Strategy: Our mission "is to improve the health of children...by eliminating or reducing lead exposure and associated health impacts." (p.1)

¹ See e.g., ECOS Resolution 98-9, U.S. EPA Enforcement in Delegated States (revised September 28, 2016), describing the EPA and state roles in enforcement in authorized states: "WHEREAS, U.S. EPA and the States have bilaterally developed policy agreements which reflect those roles and which recognize the primary responsibility for enforcement action resides with the States, with U.S. EPA taking enforcement action principally where the State requests assistance, is unwilling or unable to take timely and appropriate enforcement actions, or in actions of national interest, or in actions involving multiple state jurisdictions."

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2. Are there any other shared goals/priorities/strategies that EPA should identify in the FY 2020-2021 NP Guidance and how can we best achieve them together?

Measures of Success:

3. OECA will use the strategic objectives and measures as well as our annual budget measures (pgs. 617 and 620-622 in FY 2019 Congressional Justification) to assess our progress and evaluate whether we have achieved our shared goals. In addition to the two enforcement strategic measures (see above in Question 1), OECA will prioritize activities that contribute toward the compliance-related strategic measures and priorities that are related to the above table. Do states and tribes have suggestions for additional ways in which we should measure our effectiveness or define success?

Background: To accomplish these goals, EPA recognizes that (1) among EPA, states, and tribes, joint governance and shared accountability are key principles and, (2) increased compliance requires a broad range of compliance assurance tools to be available for use.

Assistance and Flexibilities:

4. What financial, administrative, and/or programmatic flexibilities or other assistance are needed to carry out our shared goals/strategies?